

REMARKS

Please reconsider the rejection of claims 22-53 in the above-identified application for the following reasons:

The pending claims are 22-103. Claims 54-103 have been added. No new matter is introduced therein.

Claims 22-27 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Marek (U.S. Patent No. 3,333,721). The rejection is traversed. Claim 22 recites, in part:

an elongate arm coupled to said body for reciprocal extension along an axis of said arm. . .said arm being adapted for engagement with the door of the container, and. . . being adapted to reciprocate the door of the container. . . .

The above-recited features are not disclosed by Marek. Marek discloses a waste container used to hold cardboard boxes containing radioactive waste. The container has a slidable door in the top of the container for access to cardboard boxes within. Marek does not disclose a carrier body having "an elongate arm coupled to said body for reciprocal extension along an axis of said arm. . .said arm being adapted for engagement with the door of the container" that the carrier can receive. That is, Marek does not disclose an arm on a container for engagement with any part of a cardboard box within the container.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the claim. MPEP § 2131 (citations omitted). There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *Scripps Clinic & Research Foundation v. Genentech Inc.*, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991).

Since Marek does not disclose an arm adapted for engagement with a container door and adapted to reciprocate the door, claim 22 is not subject to rejection under 35 U.S.C. § 102(b) as being anticipated by Marek.

Furthermore, Marek teaches away from the invention recited in claim 22. Specifically, Marek states:

This container may be assembled around a cardboard box, or the box may be inserted into the assembled container before the cover assembly is installed. In both cases, it is preferable to keep the flaps of the box folded down against the outside of the box while it is inside the container. (col. 3, lines 5-10)

Thus, Marek teaches an intention to keep the inside box permanently open while it is inside the container. The inside box is kept open by keeping "the flaps of the box folded down against the outside of the box." In contrast, claim 22 recites, in part, an arm that is "adapted to reciprocate the door of the container. . .between the opened and closed positions." Since Marek preferably "keep[s] the flaps of the box folded down", Marek teaches away from an arm adapted for engagement with a container door to reciprocate that door. For these reasons, also, claim 22 is not subject to rejection under 35 U.S.C. § 102(b) as being anticipated by Marek.

Claim 23-27 depend from claim 22. Therefore, claims 23-27 are also not subject to rejection under 35 U.S.C. § 102(b) as being anticipated by Marek.

Claims 22, 24-26, 29, 30, 37, 39-41 have been rejected under 35 U.S.C. § 102(b) as being anticipated by an "on sale" bar as shown by Foot Pedal Cart Order No. 8938FP on page 16 of the SharpSafety™ brochure. The rejection is traversed.

Since the Office Action does not correlate elements of the brochure to recitations in the claims, applicant must guess as to how the Office Action intended to apply the brochure. Claim 22 recites, in part

an elongate arm coupled to said body for reciprocal extension along an axis of said arm. . .said arm being adapted for

engagement with the door of the container, and said reciprocal extension of said arm being adapted to reciprocate the door of the container in the direction of said axis between the opened and closed positions.

Referring to page 16 of the brochure, the Office Action fails to identify any structure of the Foot Pedal Cart Order No. 8938FP that corresponds to Applicants' claimed arm component that is (1) "coupled to said body for reciprocal extension along an axis of said arm"; (2) "adapted for engagement with the door of the container"; and (3) "adapted to reciprocate the door of the container in the direction of said axis." It is respectfully submitted that these combined features of claim 22 are not found anywhere in the Foot Pedal Cart Order No. 8938FP. For these reasons, claim 22 is not subject to rejection under 35 U.S.C. §102(b) as being anticipated by page 16 of the SharpSafety™ brochure.

Claims 24-26, 29, and 30 depend from claim 22. Therefore, claims 24-26, 29, and 30 are also not subject to rejection under 35 U.S.C. § 102(b) as being anticipated by page 16 of the SharpSafety™ brochure.

Claim 37 recites, in part

an elongate arm coupled to said body for reciprocal extension along an axis of said arm. . .said axis of said arm being oriented substantially parallel to said path of said door of said container,. . .said reciprocal extension of said arm being adapted to reciprocate said door. . .along said path between said opened and closed positions.

The aforesaid brochure does not disclose any structure, and the Office Action fails to cite any structure, in which the "axis of said [elongate] arm [is] oriented substantially parallel to said path of said door of said container." More specifically, the Office Action fails to cite to anything in the Foot Pedal Cart Order No. 8938F on page 16 of the SharpSafety™ brochure that shows an elongated arm component that is (1) "coupled to said body for reciprocal extension along an axis of said arm;" (2) "adapted for engagement with the door of the container;" and (3) "adapted to

reciprocate the door of the container in the direction of said axis." It is respectfully submitted that these combined features of claim 37 are not found anywhere in the Foot Pedal Cart Order No. 8938FP.

Therefore, claim 37 is not subject to rejection under 35 U.S.C. § 102(b) as being anticipated by page 16 of the SharpSafety™ brochure.

Claims 39-41 depend from claim 37. Therefore, claims 39-41 are also not subject to rejection under 35 U.S.C. § 102(b) as being anticipated by page 16 of the SharpSafety™ brochure.

Claims 22-27, 29, 32, 33, and 53 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Sosan (U.S. Patent No. 5,163,574). The rejection is traversed. As shown above with respect to Marek, Sosan also does not show

an elongate arm coupled to said body for reciprocal extension
along an axis of said arm. . .said arm being adapted for
engagement with the door of the container, and. . .being
adapted to reciprocate the door of the container in the direction
of said axis between the opened and closed positions.

As pointed out above, a claim is anticipated only if each and every element set forth in the claim is found in a single prior art reference. Sosan discloses a trash receptacle that permits the insertion and removal of trash bags (see abstract). Even if a container having a door were placed inside Sosan's trash receptacle, however, Sosan does not disclose an elongate arm that could be coupled to the body of the outer container and that would be "adapted to reciprocate the door of the" inside container. Instead, the arm 46 in Sosan is only adapted to reciprocate the door 22 of the outer container/receptacle. Arm 46 of Sosan does not anticipate these recitations in claim 22 because Sosan does not disclose that arm 46 is "adapted to reciprocate the door of the container." In Addition, Sosan does not disclose applicants' claimed arm component that is "adapted to reciprocate the door of the container in the direction of said axis." (emphasis added).

applicant shows a lack of understanding of intended use language

Therefore, claim 22 is not subject to rejection under 35 U.S.C. §102(b) as being anticipated by Sosan.

Claims 23-27, 29, 32, 33 depend from claim 22. Therefore, claims 23-27, 29, 32, 33 are also not subject to rejection under 35 U.S.C. § 102(b) as being anticipated by Sosan.

Claim 53 recites, in part,

an elongate arm coupled to said body for reciprocal extension along an axis of said arm . . . said arm being adapted for engagement with the door of the container, and said reciprocal extension of said arm being adapted to reciprocate the door of the container in the direction of said axis between the opened and closed directions.

These recitations in claims 53 are identical to the recitations in claim 22 discussed above. Therefore, for the reasons set forth above with respect to claim 22, Sosan does not disclose these features and claim 53 is not subject to rejection under 35 U.S.C. §102(b) as being anticipated by Sosan.

Claim 28 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Marek or Sosan in view of Baker (U.S. Patent No. 5,531,348). The rejection is traversed. Claim 28 depends from claim 22. As shown above, neither Marek nor Sosan disclose the features of claim 22. Furthermore, neither Marek nor Sosan suggest all of the features recited in claim 22. Baker also fails to disclose or suggest all of the features recited in claim 22. For example, Baker only discloses a single container 10 that holds waste. (col. 2, lines 40-41). Even if another container were inserted into container 10, Baker does not disclose or suggest that the inner container should have a door, and does not disclose or suggest (1) an "arm being adapted for engagement with the door of the [inner] container" and (2) the "reciprocal extension of said arm being adapted to reciprocate the door of the [inner] container in the direction of said axis." Since Baker fails to disclose or suggest all of the features recited in claim 22, claim 22 is not subject to rejection over Baker under 35 U.S.C. § 102 or § 103(a). Therefore, claim 28 is not subject to rejection under 35 U.S.C. § 103(a) as being unpatentable over Marek or Sosan in view of Baker.

Put simply, the proposed combination of either Marek or Sosan with Baker does not establish *prima facie* obviousness. Even assuming *arguendo* that there is a suggestion or motivation to make the proposed combination (which suggestion has not been established), the proposed combination fails to include all of the features recited in claim 28.

Claims 29-33 and 53 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Marek in view of Sosan. The rejection is traversed. Claims 29-33 depend from claim 22. For the reasons explained above, neither Marek nor Sosan disclose or suggest all of the features recited in claim 22. Specifically, neither of them disclose or suggest (1) an "arm being adapted for engagement with the door of the [inner] container" and (2) the "reciprocal extension of said arm being adapted to reciprocate the door of the [inner] container in the direction of the said axis." Again, as with the proposed combination of Marek or Sosan with Baker, the proposed combination of Marek and Sosan does not establish *prima facie* obviousness because it fails to include all of the features recited in claim 28.

Therefore, claim 22 is not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Sosan. Since claims 29-33 depend from claim 22, they, too, are not subject to rejection under 35 U. S. C. § 103(a) as being unpatentable over Marek in view of Sosan.

As for claim 22, neither Marek nor Sosan disclose or suggest all of the same recitations in claim 53. For the same reason outlined with respect to claim 22, claim 53 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Sosan.

Claims 30 and 31 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Sosan in view of Miles (U.S. Patent No. 4,338,987). The rejection is traversed. These claims depend from claim 22. As demonstrated above, Sosan does not disclose or suggest features recited in claim 22.

Miles is directed to a tool chest with a pegboard display, which can be lowered within the confines of the tool chest and securely locked. Miles fails to disclose or suggest all of the features recited in claim 22. Specifically, Miles does not

disclose or suggest (1) "an elongate arm coupled to said body for reciprocal extension along an axis of said arm;" (2) the "arm being adapted for engagement with the door of the container;" and (3) the "reciprocal extension of said arm being adapted to reciprocate the door of the container in the direction of said axis between the opened and closed positions." Element 23 in Miles is not an arm. It is a cable. Cable 23 does not engage a door. Instead, it engages pegboard 27 so that pegboard 27 can be raised and lowered. Since cable 23 is not coupled to a door, Miles does not disclose or suggest that the reciprocal extension of the arm can reciprocate a door of a container "in the direction of said axis between the opened and closed positions." Therefore, claim 22 is not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Miles. Therefore, claims 30 and 31 are not subject to rejection under 35 U.S.C. §103(a) as being unpatentable over Sosan in view of Miles.

Claims 37-43 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Marek or Sosan in view of Mosior (U.S. Patent No. 5,531,346). The rejection is traversed. Claim 37 recites, in part:

an elongate arm coupled to said body for reciprocal extension along an axis of said arm. . . , said arm being adapted for engagement with said door of said container, and said reciprocal extension of said arm being adapted to reciprocate said door of said container. . . .

As shown above, neither Marek nor Sosan disclose these features. The closure 30 in Mosior "includes a handle 32 to facilitate sliding movement of the closure 30." (col. 3, lines 55-56). There is no suggestion in Mosior that any structure from either the Marek apparatus or from the Sosan apparatus could be adapted to engage the lid/closure 30 in Mosior and that such structure could reciprocate the lid/closure in Mosior. There is also no suggestion in either Marek or in Sosan that the container shown in Mosior could be added to either of them and that any structures of either of them could be adapted to engage and reciprocate the door in Mosior. The Office Action has combined these references based upon the hindsight provided by applicant's disclosure, which is improper. For these reasons, claim 37 is not subject to rejection under 35 U. S.C. § 103(a) as unpatentable over Marek or Sosan in view of Mosior.

Claims 38-43 depend from claim 37. Therefore, claims 38-43 are not subject to rejection under 35 U.S.C. § 103(a) as being unpatentable over Marek or Sosan in view of Mosior.

Claims 44-49 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Marek or Sosan in view of Mosior and further in view of Baker. The rejection is traversed. Claims 44-49 depend from claim 37. As shown above, neither Marek nor Sosan nor Mosior disclose or suggest the features recited in claim 37, whether considered alone or in hypothetical combination. Baker also fails to disclose the features recited in claim 37. Specifically, Baker fails to disclose or suggest (1) "a door mounted for sliding reciprocation along a path;" (2) "said axis of said arm being oriented substantially parallel to said path of said door;" and (3) the "reciprocal extension of said arm being adapted to reciprocate said door of said container along said path." The door 14 in Baker does not slide. Instead, it rotates about hinge 15. The axis of bars 22 are not oriented substantially parallel to the path of lid 14. The reciprocal extension of bars 22 are not adapted to reciprocate lid 14 along a sliding path. Therefore, neither claim 37 nor these claims are subject to rejection under 35 U.S.C. § 103(a) as being unpatentable over Marek or Sosan in view of Mosior and further in view of Baker.

Applicant gratefully acknowledges that the Examiner has indicated that claims 34-36 and 50-52 would be allowable if rewritten in independent form. Applicant has not rewritten those claims into independent form at this time because applicant believes that independent claims 22 and 37 are allowable.

Claims 54-103 are newly added. Recitations about the hood in claims 54, 56, 60, 72, 73, 79, 80, 84, 85, 90, 91, 97, 98, 102, 103 are supported by page 7, line 14 to page 8, line 2 of applicant's specification, for example. Recitations about a pin at the end of the arm in claim 74 and the second perpendicular portion of the arm in claim 75 are supported by page 13, lines 10-16, 22-26; page 14, lines 18-20; page 15, lines 7-12; page 16, lines 13-21, and Figure 7, for example. Recitations about the hollow body in claims 61, 66 are supported by page 8, lines 16-21, for example. Recitations about the cable in claim 62 are supported by, for example, page 8, lines 16-21; and page 16, lines 13-27, for example. Recitations about the spring in claims 67, 68, 72 are supported, for example, by page 14, lines

3-6; page 15, lines 4-7. Recitations about a protruding surface positioned to inhibit removal of the carrier in claims 85, 86, 90 are supported by page 12, lines 23-27, for example. Recitations about a stop for limiting the range of movement of the hood in claims 91, 95-97 are supported by page 12, lines 12-20, for example. Recitations about rotationally molding a body portion of the carrier in claims 102-103 are supported by page 10, lines 1-2; page 12, lines 28-29; page 19, lines 4-6, for example. Recitations about locking the arm in a retracted position in claims 57, 63, 69, 76, 81, 87, 92, 99 are supported by page 14, lines 7-15. Recitations about a lock for locking the hood in a first, or closed, position in claims 58, 64, 70, 77, 82, 88, 93, 100 are supported by page 7, lines 22-28. Recitations about a locking bracket recited in claims 59, 65, 71, 78, 83, 89, 94, 101 are supported by page 9, lines 5-22, for example.

The prior art made of record and not relied upon is not considered any more pertinent to applicant's disclosure than that already cited.

For all the foregoing reasons, applicant respectfully solicits allowance of claims 22-103.

Respectfully submitted,



Joshua L. Cohen, Reg. No. 38,040
Attorney for Applicant

JLC/ds/pb

Dated: May 14, 2003

P.O. Box 980
Valley Forge, PA 19482-0980
(610) 407-0700

The Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. 18-0350 of any fees associated with this communication.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

May 16, 2003

Patricia C. Boccella
